providing the user with access to the requested resource if the requested resource indicates that the user may access the requested resource.

33. (New) A method according to claim 32, further comprising:

storing information in the memory indicating that the user has previously accessed the requested resource.

REMARKS

This amendment is submitted in response to the Office Action mailed **June 6, 2000**. With this amendment, claim 1 has been amended merely to remove a lingering informality – no new matter has been introduced. Accordingly, claims 1, 3-5, 7-15 and 17-33, as selectively amended, remain pending. In view of the following remarks favorable reconsideration of the captioned application is respectfully requested.

35 U.S.C. § 102(e) Rejections: The Ensor Reference

In **paragraphs 1** and **2** of the Action, claims 1, 7-9, 14, 15, 21-23 and 28-31 were rejected as being anticipated by a patent issued to Ensor, et al. (USP 5,721,780). In response, Applicant respectfully traverses the rejection of these claims.

The Ensor Reference

Ensor is directed to a system and method for authenticating user terminal access to a network. Ensor describes a system wherein upon receiving a request for service from a user terminal (110) (e.g., client), a transaction manager (114) at the service bureau (108) (e.g., server) issues a request to a processor (126) of the

requesting user terminal (110) to access terminal memory (126) for an encrypted password. If the password is returned, and it is authenticated, the requesting terminal is provided access. If the password is not returned, or not authenticated, transaction manager (114) accesses a local data structure (112) to determine whether the requesting user terminal is authorized for such access. If so, the user is provided such access and a terminal identifier (e.g., a telephone number) is encrypted as a password and sent to processor (124) of the user terminal (110), which stores the encrypted password in terminal memory (126) to facilitate future accesses (see, e.g., col. 2, lines 15-38; col. 5, lines 8-32; col. 5, line 54, through col. 6, line 6; Figs. 1-3).

Independent Claims

Claim 1, for example, is generally drawn to a computer readable medium including instructions which, when executed, implement a method for authenticating user access to network resources. More particularly, claim 1 is directed to a medium comprising a plurality of instructions that, when executed, implement a method comprising:

> checking a first memory to determine if a user has previously accessed a resource on a computer network upon receipt of an indication from the user to access the resource; and
>
> providing the user with access to the resource if the first memory indicates that the user has previously accessed the resource (as amended)

That is, claim 1 is drawn to a system wherein access to a network resource is provided to a requesting user if, upon checking a first memory, it is determined that the user has previously accessed that resource. Unlike claim 1, the transaction manager (114) of Ensor issues a request to a processor (124) of a terminal for a

password; if available, the password is returned to the transaction manager (114) from the processor (124) of the terminal; the retrieved password is then authenticated by the transaction manager (114), before access to the requested resource is provided. That is, the Ensor reference is representative of prior art systems wherein password files are accessed to foster password authentication as a means of gaining access to a requested resource – *even if the resource has been previously accessed.*

In contradistinction, the claimed invention merely accesses a memory to determine whether the resource has been previously accessed by the user and, if so, providing subsequent access. Thus, while the Ensor reference **automates** the password acquisition and authentication process, the claimed invention **eliminates** the password acquisition and authentication process if the user has previously accessed the requested resource.

Well settled patent law requires that a single reference must teach each and every element of a rejected claim as presented within the claim to support a §102 rejection. The Ensor reference does not meet this standard. By interrogating the client for a password and authenticating the password before providing access to requested network resources, even if the user has previously accessed the requested resource, Applicant respectfully asserts that the Ensor reference does not teach each and every element as presented in rejected claim 1. Thus, Applicant respectfully submits that the Ensor reference fails to anticipate that which is claimed in rejected claim 1.

Moreover, Applicant respectfully asserts that requiring the client to provide a password for authentication (whether done manually or automatically) before providing access to a previously accessed network resource **actually teaches**

away from that which is claimed in rejected claim 1. It is to be appreciated that a reference that actually teaches away from that which is claimed cannot reasonably be read as suggesting that which is claimed. That is, without the benefit of hindsight reconstruction using the claimed invention as a guide, one skilled in the art would not be motivated by the password authentication system of Ensor to create a system that is not based on password authentication. Applicant respectfully asserts that there is no other motivation provided within the reference or the state of the art at the time the claimed invention was conceived.

Insofar as the Ensor reference fails to anticipate or even suggest that which is claimed in rejected claim 1, Applicant respectfully requests that the §102(e) rejection of such claim be withdrawn.

Similarly, claims 15 and 31 include elements similar to claim 1 and are, therefore, patentable over the Ensor reference for arguments analogous to those presented above. Accordingly, Applicant requests that the §102(e) rejection of such claims be withdrawn.

Dependent Claims

Similarly, by virtue of at least their dependence upon patentable base claims 1 and 15, as amended, Applicant respectfully submits that claims 7-9, 14, 21-23 and 28-30 are likewise patentable over the Brown reference by virtue of at least this dependency. Accordingly, Applicant respectfully requests that the §102(e) rejection of such claims be withdrawn.

§103(a) Rejections: The Ensor Reference

Turning to **paragraph 3** of the Action, claims 3, 4, 10-13, 17, 18, 24-27, 32 and 33 were rejected as being obvious in light of the Ensor reference. In response, Applicant respectfully traverses the rejection of such claims.

Applicant respectfully submits that the Ensor reference fails to disclose or suggest that which is claimed in rejected claims 1, 15 and/or 31. Indeed, Applicant has shown that the password authentication paradigm of the Ensor teaches away from that which is claimed in rejected claims 1, 15 and/or 31. Claims 3, 4, 10-13, 17, 18, 24-27, 32 and 33 depend from patentable base claims 1, 15 and/or 31 and are, therefore, patentable over the Ensor reference based at least on this dependency.

In addition to the foregoing basis of patentability, certain ones of the rejected claims (e.g., 3-5, 11, 17, 18 and 25) introduce the concept of a token representing user(s) in the first memory. In rejecting such claims, the Action indicates that a password may be represented as a token. While, in general, a password may well be represented as a token in memory, the Ensor reference does not disclose or suggest the use of tokens. Moreover, even if the password of the Ensor system were replaced with a token, that token uniquely identifies a single client (as did the password) as a means of ensuring that a client does not simply plug into a different system to fraudulently access resources for which the client is not authorized (see, e.g., col. 5, lines 22-32 and 60-66). There is no provision for a single token to represent multiple parties. Ensor does discuss the concept of authenticating a client password that is "similar" to a required password as a means of providing access to a user of a group with access privileges. It is noted, however, that the password used by the accessing client is still "unique" to the client. (see, e.g., col. 6, lines 7-25).

In contradistinction, rejected claims 4, 5, 17 and 18 include the feature wherein tokens represent multiple users, and/or that a token may represent multiple anonymous users. Applicant respectfully asserts that by assigning a

unique password to each client, the Ensor reference actually teaches away from the use of a single password by a user from multiple clients. Thus, Applicant respectfully submits that the Ensor reference cannot fairly be read as suggesting the use of tokens in general, or the use of a single token by multiple users in particular, as claimed in one or more of rejected claims 3-5, 11, 17, 18 and 25. Accordingly, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

§103(a) Rejections: The Ensor and Teper References

Turning to **paragraph 4** of the Action, claims 5, 19 and 20 were rejected as being obvious over the Ensor reference in light of a patent issued to Teper, et al. (USP 5,815,665). In response, Applicant respectfully traverses the rejection of such claims.

Without the need to further characterize the Teper reference, Applicant respectfully asserts that the combination of the Ensor and Teper references fails to disclose or suggest that which is claimed in rejected claims 1 and 15. Moreover, Applicant respectfully reserves the right to swear behind the Teper reference (in accordance with Rule 131), should the rejection of such claims be maintained.

Applicant respectfully asserts that claims 5, 19 and 20 are dependent on patentable claims 1 and 15, as amended. Accordingly, by virtue of at least their dependency on patentable base claims 1 and 15, as amended, Applicant respectfully requests that the §103(a) rejection of claims 5, 19 and 20 be withdrawn.

§103(a) Rejections: The Ensor and Brown References

Turning to **paragraph 5** of the Action, claims 11 and 25 were rejected as being obvious over the Ensor reference in light of a patent issued to Brown, et al. (USP 5,941,947). In response, Applicant respectfully traverses the rejection of such claims.

Without the need to further characterize the Brown reference, Applicant respectfully asserts that the combination of the Ensor and Brown references fails to disclose or suggest that which is claimed in rejected claims 1 and 15.

Applicant respectfully asserts that claims 11 and 25 are dependent on patentable claims 1 and 15, as amended. Accordingly, by virtue of at least their dependency on patentable base claims 1 and 15, as amended, Applicant respectfully requests that the §103(a) rejection of claims 11 and 25 be withdrawn.

§103(a) Rejections: The Ensor Reference in light of APA

Turning to **paragraph 6** of the Action, claims 32 and 33 were rejected as being obvious over the Ensor reference in light of a Applicant's Admitted Prior Art (APA). In response, Applicant respectfully traverses the rejection of such claims.

Without the need to further characterize the Statement of the Problem of the Application cited as APA, Applicant respectfully asserts that the combination of the Ensor reference and the APA fail to disclose or suggest that which is claimed in rejected claims 31.

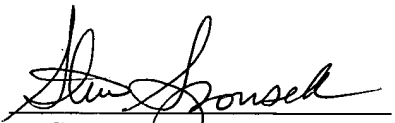
Applicant respectfully asserts that claims 32 and 33 are dependent on patentable claim 31. Accordingly, by virtue of at least their dependency on patentable base claim 31, Applicant respectfully requests that the §103(a) rejection of claims 32 and 33 be withdrawn.

Conclusion

Claims 1, 3-5, 7-15 and 17-33 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. ***Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.***

Respectfully Submitted,

Date: September 6, 2000

By: 

Steven R. Sponseller
Reg. No. 39,384
(509) 324-9256 (x 17)